

INITIAL STATEMENT OF REASONS

Adoption of new section 570.5 and revised 571(b) - Clarification and identification of specific requirements for publicly available pay schedule and labor policy or agreement.

Description of Public Problem, Administrative Requirement, or Other condition or Circumstance that the Regulation is Intended to Address:

Only "compensation earnable" (defined under Government code sections 20636 and 20636.1 and corresponding regulations to include "payrate" and "special compensation") can be reported to CalPERS and considered in calculating retirement benefits. Generally the law requires that a member's payrate be shown on a publicly available pay schedule, that special compensation be limited to items included in a labor policy or agreement, as defined, and that all records establishing and documenting payrate and special compensation be available for public scrutiny. Employers have not uniformly adhered to these requirements.

Failure to adhere to these laws has sometimes resulted in audit findings, reversals of payroll, adjustments to retirement benefit calculations and increased workload for both CalPERS staff and employers. It is anticipated that these proposed changes to the regulations will provide CalPERS employers the details necessary to comply with the statutory provisions.

The proposed addition of section 570.5 and amendment to section 571, subdivision (b) will ensure consistency between CalPERS employers as well as enhance disclosure and transparency of public employee compensation by requiring that the payrate or item of special compensation be listed on a schedule or in a document that:

- Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meeting laws;
- Has been posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- Indicates the effective date and date of any revisions;
- Is retained by the employer and available for public inspection for not less than five years;
- Does not reference another document in lieu of disclosing the payrate or item of special compensation;
- For payrate, identifies the position title for every employee position, shows the payrate for each position, and identifies the time base;
- For special compensation, indicates the conditions for payment.

Specific Purpose: The proposed regulations will clarify existing law and ensure consistency between CalPERS employers as well as enhance disclosure and transparency of public employee compensation.

Necessity: These regulations will help CalPERS enforce compliance with the compensation statutes, maintain a consistent practice of verifying payrates and special compensation for compensation reported by CalPERS employers, and encourage transparency and proper reporting of public employees' pay for retirement purposes.

CalPERS may achieve cost savings as a result of decreased litigation and administrative appeals related to these issues, as employers and members become more aware of the requirements for a publicly available pay schedule and/or labor policy or agreement.

Technical, Theoretical and/or Empirical Studies, Reports or Documents: Not applicable.

Alternatives to the Regulatory Action and CalPERS' Reasons for Rejecting Those Alternatives: CalPERS has considered alternatives to this proposal, and has determined that there is no more effective way to carry out its purpose that would be less burdensome. The alternative of adopting no regulation would be less effective and would not lead to the anticipated benefits expected from the proposed action.

Alternatives to the Regulatory Action that Would Lessen any Adverse Impact on Small Businesses: The proposed action has no cost impact on small businesses because it applies only to public agency employee retirement benefits.